ID.date	Date of interview 11/02/20
ID.start	Time interview started 08:35:23
ID.endDate	Completion date of interview 11/02/20
ID.end	Time interview ended 08:41:11
ID.time	Duration of interview 5.80

new case

ICO consultation on the draft right of access guidance

Q1 Does the draft guidance cover the relevant issues about the right of access?

- ○ Yes
- ◉ No
- ○ Unsure / don't know

If no or unsure/don’t know, what other issues would you like to be covered in it?

Introduction of the right to data portability radically changes the context in which Subject Access Requests operates. In the future, data portability may mean that individuals are accessing data about them held by organisations on a mass scale - for example, if Open Banking takes off, or if Governments adopt policies that favour the sharing of Verified Attributes for the purposes of identity assurance, proofs of entitlement etc. A number of issues arise. These include: - potential confusion amongst the general public over the differences between a SAR and data portability, and the possibility that individuals may make requests under one heading rather than the other - potential confusion over what is covered by a SAR and data portability. It may not be strictly relevant here, but there is wide room for interpretation of the meaning of the term 'provided by', which needs further clarification - as far as is practically possible, there should be common and standard processes that unite and cover both SARs and data portability requests, so that it becomes as simple and easy as possible for individuals to obtain copies of their data, and so that services working on behalf of the individual do not incur unnecessary friction, effort and cost in obtaining and using this data - in addition, we don’t think this guidance covers requirements for transparency in relation to processing by algorithms, which is a relatively new area and requires detailed consideration Does the draft guidance contain the right level of detail?

Q2 Does the draft guidance contain the right level of detail?

- ○ Yes
- ◉ No
- ○ Unsure / don't know

If no or unsure/don't know, in what areas should there be more detail within the draft guidance?

The guidance should recognise and address the issues highlighted in our answer to Question 1 in more detail.

Q3 Does the draft guidance contain enough examples?

- ○ Yes
- ◉ No
- ○ Unsure / don't know

If no or unsure/don’t know, please provide any examples that think should be included in the draft guidance.

No see our answers to question 1, the scope needs clarifying and this would lead to a broader set of use cases including ones in which the requesting individual wants access for their own use.

Q4 We have found that data protection professionals often struggle with applying and defining ‘manifestly unfounded or excessive’ subject access requests. We would like to include a wide range of examples from a variety of sectors to help you. Please provide some examples of manifestly unfounded and excessive requests below (if applicable).

There is a long list, incuding: medical records financial records data sharing records customer service interactions informed consent transactions processing by an algorithm access to records relating to benefits access to records relating to tenancy agreement

Q5 On a scale of 1-5 how useful is the draft guidance?

1 - Not at all useful	2 – Slightly useful	3 – Moderately useful	4 – Very useful	5 – Extremely useful
○	○	☑	○	○

Q6 Why have you given this score?

Overall, the number of SARs made every year is tiny. With the advent of data portability, the number and frequency of cases where individuals are seeking to obtain copies of their personal data could increase exponentially. The areas of overlap, of potential confusion, and the need for common easy-to-use processes are critical if the right of individuals to obtain copies of their data is to be fully implemented. This guidance is only moderately useful because of its restricted vision: because it is not anticipating what could be a very different future.

Q7 To what extent do you agree that the draft guidance is clear and easy to understand?

Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree
○	○	○	☑	○

Q8 Please provide any further comments or suggestions you may have about the draft guidance.

Does the ICO have plans to produce guidance on data portability? As a new right which is raising considerable interest, it should be seen as a priority. And logically speaking, the guidances on SARs and data portability should both be developed and implemented with the other in mind so that they work together in unison rather than becoming a potential source of confusion. Does the ICO have plans to provide guidance relating to how to explain processing by an algorithm so that citizens can understand it? Does the ICO have plans to provide guidance on transparency around data sharing?

Q9 Are you answering as:

- ○ An individual acting in a private capacity (eg someone providing their views as a member of the public)
- ○ An individual acting in a professional capacity
- ◉ On behalf of an organisation
- ○ Other

Please specify the name of your organisation:

Mydex Community Interest Company

What sector are you from:

Data management

Q10 How did you find out about this survey?

- ( ) ICO Twitter account
- ( ) ICO Facebook account
- ( ) ICO LinkedIn account
- ( ) ICO website
- (x) ICO newsletter
- ( ) ICO staff member
- ( ) Colleague
- ( ) Personal/work Twitter account
- ( ) Personal/work Facebook account
- ( ) Personal/work LinkedIn account
- ( ) Other

If other please specify: